

Docket No.: 50432-477



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WEE
PATENT 11/102

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

William G. EN, et al.

Serial No.: 10/021,497

Filed: December 19, 2001

Group Art Unit: 2822

Examiner: SOWARD, Ida M.

For: ARRAY OF GATE DIELECTRIC STRUCTURES TO MEASURE GATE DIELECTRIC THICKNESS AND PARASITIC CAPACITANCE

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, DC 20231

Sir:

Noting the Office Action of October 3, 2002 wherein restriction has been required, Applicant(s) hereby elect Group I (claims 1-10) with traverse for prosecution in the above-identified application.

The restriction requirement is traversed because the Examiner has not **shown** that the device of the Group I invention could be made by a process materially different from those/that of the Group II invention. The Examiner merely states, "the wafer as claimed can be made by another and materially different manufacturing method," without explaining how the wafer can be made by another and materially different manufacturing method. The Examiner has not satisfied the required burden of imposing a restriction. See MPEP § 806.05(f). The restriction requirement is improper and should be withdrawn.

If the restriction requirement is maintained, Applicants request rejoinder of the non-elected method claims upon allowance of a product claim per MPEP § 821.04.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY

A handwritten signature in black ink, appearing to read "Bernard P. Codd". The signature is fluid and cursive, written over the printed name.

Bernard P. Codd

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